

CONSERVATION COMMISSION
MINUTES OF THE MEETING
WEDNESDAY, JANUARY 16, 2008 – 6:45 PM
CATA CONFERENCE ROOM
3 POND ROAD
ROBERT GULLA, CHAIRMAN

MEMBERS PRESENT

Robert Gulla, Chairman
John Feener
William Febiger
Brandon Frontiero

MEMBERS ABSENT

Arthur Socolow
Charles Anderson
Ann Jo Jackson, Vice Chair

STAFF PRESENT

Nancy Ryder, Conservation Agent
Carol Gray, Recording Clerk

Mr. Robert Gulla, Chairman opens the meeting of the Gloucester Conservation Commission.

19 SQUAM ROCK ROAD

Mr. Gulla has recused himself from the discussion with Mr. William Febiger as Chairperson for the interim.

The Agent reviews with the GCC noting expected information is to be submitted including a revised site plan showing the reduced scope of fill toward the shore line, the increase erosion control, blasting protocols, details re: the construction process, amount of fill to be imported, landscaping details re: boulder wall on the driveway side of the home (if proposed), removal of the boulder wall. Mitigation for the tree removal was submitted yesterday and today. The engineering review is still outstanding.

MOTION: Mr. ***** moves to continue the matter to 02/06/08

SECOND: Mr. ***** **VOTE:** 3-0 all in favor

The matter is continued to 02/06/08 at 7:05 PM.

71, 73 & 79 CONCORD STREET (DEMOULOS)

(Map 234, Lots 38, 39 & 42)

Retail Management and Development Inc. to construct a commercial building with associated site work, utilities, parking and replication.

The Agent notes that the applicant has requested a continuation to 02/20/08 at 8:00 PM as the third party review is not complete at this time.

MOTION: Mr. Febiger moves to continue the matter to the above date and time.

SECOND: Mr. Frontiero **VOTE:** 4-0 all in favor

At this time Mr. Robert Gulla resumes his position as Chairman.

31 NORSEMAN AVENUE (Map 144, Lot 29)

(After the fact filing)

This is a NoI submitted by Leonard Chardo for excavation and roadwork in the buffer to a coastal bank, fill in a coastal bank and landscaping. The Agent notes that the applicant has requested a continuation until the first meeting in March which is 03/05/08, to allow

for a rescheduling of the site visit which was cancelled due to the snow storm and for the follow up time from then to redraft the site plan.

MOTION: Mr. Febiger moves to continue the matter to the above date.

SECOND: Mr. Feener VOTE: 4-0 all in favor

85 WINGAERSHEEK ROAD (Map 85, Lot 17)

This is a NoI submitted by Matthew Magee to maintain a previously installed fence in Coastal Dune/Barrier Beach.

The Agent notes that the new owner of the property is filing to resolve the issue of a fence already in place without prior review and approval within coastal dunes and barrier beach. An inspection was done by Ms. Nancy Ryder, Conservation Agent for the City of Gloucester and Leslie Nitkiewicz.

The Agent notes the dune migration in that area and regarding this issue the GCC should use any previous experience with these issues to go by when making a decision.

Mr. Gulla notes that the Agent has documented a bigger problem regarding dunes and the area than just this particular issue this evening.

The Agent notes a tremendous number of fences that have gone up w/o permits and notes a deck as well that is in violation. She further notes that the fence is above the dune.

She states that the GCC needs to review the Performance Standards and any and all information that is available to make a decision. There is no DEP number as of yet.

The Agent further states that the height and length of the fence will impact wind re: the movement of the sand. The wind is not a great factor in this particular case because the house is blocking it. This issue may remain with other plans that the GCC may come across in the future, so that has to be taken into consideration as well.

Mr. Gulla notes that structures need to be in place on the actual site plan for review.

The Agent suggests Google Earth for mapping purposes with Mr. Gulla also suggesting an assessor's map. General sizes and shapes need to be noted on the plan in relation to the home owner's residence.

Mr. Febiger notes that the owner needs to note only two houses, his and the abutters.

Mr. Gulla notes that having the houses there in relation to the wind can be good and bad.

The applicant states that he will take photos and submit them to Comm. Development.

Mr. Frontiero noted a possible wind tunnel re: the two houses with Mr. Febiger stating that it would be direction dependant.

The Applicant notes that he inherited the problem and asks the GCC if the burden of proof is on him to prove that there is no impact and further states that the bottom of the fence is above the flood mark and tow line.

The Agent states that formal decisions need to be made with a policy in place.

She notes the number of 2 ft. above primary tow/coastal dune and that there is no legal foundation for that height.

Mr. Gulla inquired as to the elevation of 2ft. and where the decision was made regarding that particular number, stating that this runs from project to project. In this case the 2ft. can be used and we would not have to backtrack on standards and decisions made on how to go about this now.

Mr. Frontiero inquired as to the tow of dune draft and Mr. Gulla states that #103, #104, and #102 kind of roll back somewhat.

The Agent notes that the fence goes up and down.

Mr. Febiger notes that he has no recollection of discussions re: fences.
The Agent notes that he is correct as most have been creating violations by putting up the fences w/o being permitted. She further states that DEP only goes back 3 years.
Mr. Gulla notes that more data regarding the neighborhood is needed.
The Agent notes a paper copy and an email.
She further notes that DEP information is needed re: a file number and comments. DEP will consider this as a new filing.
Mr. Gulla states he will entertain a motion to continue the matter to 02/06/08 at 7:20 PM.
MOTION: Mr. Feener moves to continue the matter to the above date and time.
SECOND: Mr. Febiger VOTE: 4-0 all in favor.

The Agent requests at this time that the GCC check information regarding Coastal Dunes. Information should not be based on ft. elevation but on the dune itself. A policy needs to be set re: density of the slats and/or the direction of the wind.

PUBLIC COMMENT: none/closed.

41 WHITTEMORE STREET (Map 21, Lot 7)

This is a NOI submitted by McNiff Company to construct 10 residential units and a community building with associated grading, utilities, piers, gangways and seasonal floats in multiple resource areas and buffer zone.
Mr. John McNiff and Mr. Ken Fields on behalf of McNiff Co. present.
Mr. Fields addresses the GCC and notes the resource areas on the site plan. He notes this being just north of the T rail tracks pointing out the navigational channel. He notes the coastal beach area and areas below the mean high water line as being resource areas and land subject to tidal action and a riverfront protection area having 200ft of riverfront area. He notes the green line on the plan as the buffer zone and elevation 9 re: 100 yr. storm. BVW noted along with phragmites in the area and a healthy salt marsh as well as land containing shellfish. He states that there is mostly just fill on the site and remnants of the Old Forge Building (a cement platform). He notes the photos and areas that are paved on the site. Ash and cinders are present as it was an old forge site. He notes a 21E investigation with the result being deemed no risk but with a residential project more is needed. Bad materials to be taken offsite.
He is filing portions of the project as a limited project, in so far as containing and removing. He notes the plan and the 10 residential units proposed for the site.
He notes SW of the site as an area of erosion. Several areas at coastal bank have evidence of erosion as a result of sheet flow. He notes a remedy for this being catch basins, noting the edges of the driveways and this going to a storm captor before being discharged to an organic filter with the discharge area having stone, further noting the rain gardens. In regards to land subject to flooding he notes filling up the area (elevation 9), and a raised area with fill. The fill is part of the separation of ash and cinder which is considered part of the limited project. He notes a photo from the 1960's and one photo from a year ago, further noting the coastal bank line with a proposal to armour that as it has been armoured in the past. He states to the GCC that they have tried there best to meet the form and volume re: Performance Standards in regards to land subject to tidal action, again noting the navigational channel. Proposed are 2 decks, gangway, floats and

9 slips connected to a perimeter walkway. It was agreed that they would open up the walkways to the general public. The walkway will be of stone and there will be a bridge at the coastal bank. In regards to the riverfront area, he believes they can meet the standards and qualify as an historical complex.

There is a resident community building proposed as well.

The Agent notes that this is still under review. This is a highly impacted degraded site and the entire site is nearly all impervious. She noted her concerns re: LSP capping and information re: depth. She further notes a limited project review. She would recommend a supporting a project that improves highly impacted areas in the city.

Mr. Fields noted vegetation and plantings and natural habitat with the improvement of the site.

Mr. Febiger notes an area behind the homes and Mr. Fields states that the area is lower than areas around it and that is where organic ***** would be. He further noted an area on the plan at elevation 9 for overflow.

Mr. Febiger notes wind driven storm water, further noting the burns and organic areas.

Mr. Feener inquired as to why a 10 ft. pathway and not 8 ft. all the way through the walkway.

Mr. Fields states that 10 ft. is standard and comes from the Chapter 91 regulations. It allows for individuals to pass going in two different directions and an emergency access.

Mr. Feener notes the signage and states that he enjoyed the landscape plan.

Mr. Gulla notes the rain garden maintenance and standards set to keep the rain gardens and covenants for long term. He agrees with the Agent re: the capping concept.

The Agent notes that more details are needed to visually understand this.

PUBLIC COMMENT: none/closed.

Mr. Gulla states he will entertain a motion to continue the matter to 02/06/08 at 9:30 PM

MOTION: Mr. Feener moves to continue the matter to the above date and time.

SECOND: Mr. Frontiero VOTE: 4-0 all in favor.

The applicant inquired as to a site visit.

Mr. Fields states that they have lots of photographs.

The Agent asked if anything was staked and the applicant stated that it has not been done as of yet. Mr. Gulla states that a site visit isn't going to tell much with all the snow and such but whatever can be done would be helpful.

12 RIO DRIVE (Map 185, Lot 157)

This is a re-opening of a file under the City of Gloucester WL Ordinance by Poole Construction to construct a single family home, deck, driveway and utilities.

The Agent notes that the applicant has requested a continuation to 02/06/08 at 8 PM.

Mr. Gulla states he will entertain a motion to continue the matter to the above date and time.

MOTION: Mr. Febiger moves to continue.

SECOND: Mr. Frontiero VOTE: 4-0 all in favor.

15 HORTON STREET (Map 128, Lot 23)

This is a NoI submitted by Ginger Attaya for excavation of coastal bank to connect to municipal service and to construct a parking space along with selective pruning.

Ginger Attaya, applicant is present.

The Agent notes that this has been continued so that the GCC could get the plans and any information. A pipe in question is pre-existing and if removed would call for the excavation of coastal bank. One recommendation is a 2nd containment with an automatic shutoff. There is a DEP number but no comments as of yet.

Mr. Gulla notes that he has no additional packet and that the plans were given to the GCC this evening.

The Agent notes that this is an after the fact filing. The excavation is to repair the sewer line east of the house approximately at the top of coastal bank. This is 5 to 10 ft. above the mean high water mark and done w/o a permit. Several trees are requested to be removed but fall into coastal bank.

Ms. Attaya states that she thought they were trying to insulate the existing sewer line. It was noted that Mike Hale said the connection dated to 1992. She notes removing trees where the entrance would be and replant a tree as well. She further notes the parking space and 2 trees on the street. She notes removed those and replanting 2 trees in the front with a wall.

The Agent notes that the location of the proposed driveway may not be an option as it would need extensive fill along with destabilization. This may not meet the Performance Standards and would not be possible if that were the case. She recommends no removal of any trees as any tree removed would result in destabilization. Vegetation on a bank is protected and this is riverfront in addition to be coastal bank.

Mr. Gulla notes that the hole can be filled but has one issue regarding the sewer and a suggestion that when filling the hole they need to stabilize it, backfill the hole and cover it with hay. Armouring the bank and removing trees will not meet the Performance Standards.

Mr. Febiger inquired as to piers and was told yes.

Mr. Gulla noted an option of not so deep but side to side.

Mr. Feener stated that he went by the property and noted healthy trees.

PUBLIC COMMENT: none/closed.

Mr. Gulla notes possibly continuing the matter for a month as we are not comfortable with the proposed tree cutting and the location of the driveway.

The Agent states that Joe will be doing a site visit and that we need guidance from him for a Letter Permit re: filling and haying over the area in question.

Mr. Gulla states that some mitigation is needed re: damage to coastal bank. He further states that he will entertain a motion to continue the matter to 02/20/08 8:30 PM.

MOTION: Mr. Febiger moves to continue the matter to the above date and time.

SECOND: Mr. Feener VOTE: 4-0 all in favor.

15 WATERSIDE LANE (Map 201, Lots 104, 119, 121 and 122).

This is a request for determination submitted by East Gloucester Marine to clear brush, remove select trees and construct a roadway.

Mr. Steve Pardee and Mr. John Dick present.

Mr. Dick addresses the GCC and states that the applicant is willing to reduce the width and length of the project and just remove a few boulders. The tree removal is already approved by the GCC and gravel is to be placed in the area. He states he cannot comment on statements by Jim or Dave as he has not seen them as of yet.

Mr. Pardee notes that this is an opportunity for the owner/taxpayer to utilize the area as they have not been able to do that before. It has a high elevation and no major cavities or depressions and an unobtrusive alley to gain access.

The Agent notes public access documents and states that she cannot comment on the current proposal as this is 4 different plans and she cannot comment at this time.

She suggests the GCC drive by and see the area before making any decisions.

Mr. Dick brings the driveway on the plan to the attention of the GCC with Mr. Febiger stating that 50 ft. was approved.

Mr. Frontiero states that it looks as if there is a lot of material to be stripped and grubbed with lots of plant litter regarding the gravel road.

PUBLIC COMMENT:

Ms. Alisha Terenzi addresses the GCC stating that she has a petition and submits it to the Agent. She states that this is a complicated site and she has photos to submit showing marshland, noting fresh water and the coast line. This is within the 100 ft buffer zone and in violation of the Ordinance. She notes a stake located right on the border of the Campbell's' septic system measured at 6 ft away and 25 ft away from there well. She further notes aquafirs and many wells on the property.

She states that there is an irreplaceable eco system in that area and notes runoff, water pollution and vehicle access as disturbances.

The Agent reminds the general public to please submit any and all comments in writing so that there will be a record of the comments in the file.

Jerry Ackerman states that he has lived here for 38 years and notes this area as being Conservation land. The Agent notes that she will look into that.

Robert Wolff states that he is against the project and that it threatens the wildlife existing in the area noting Heron and Harbor Seals. He feels this is a resource that should be protected. **PUBLIC COMMENT:** closed.

Mr. Gulla states that at this point the matter should be continued and a resubmission of the plan. Harbor and Shellfish feedback is needed as well. He states that there needs to be copy of the revised plan, pulling all the stakes and flags and re-staking and flagging done. They are to let the Agent know when the re-staking is accomplished.

The Agent suggests the GCC individually do a drive by of the area with the site plan in hand.

Mr. Feener states that detailed plans are needed as well as cross sections.

Mr. Gulla states that he will entertain a motion to continue the matter.

MOTION: Mr. Feener moves to continue the matter to 02/20/08 8:30 PM

SECOND: Mr. Febiger **VOTE:** 4-0 all in favor.

NORTH LANDING WAY (Map 233, Lot 6)

This is a NoI submitted by Mary Whitney in response to an Enforcement Order issued to maintain sand nourishment in proximity to salt marsh and in riverfront and coastal bank areas at North Landing Way.

Mr. John Dick present noting a presentation was made previously and a site visit done on 11/8/07. Issues to be addressed are the salt marsh and the beach nourishment which hasn't been seen in several years. It was noted that the existing end of the roadway is buried. This was used as either a boat ramp or a nourished beach. Ten years ago DEP

had no issues. He noted that the effect of placing sand in the area is minimal and that the beach needs nourishing. Tonight he is looking to the GCC for closure of the plan.

PUBLIC COMMENT:

Ms. June Reinlander (Rust Island) reads a letter to the GCC that she wrote to Dave Sargent. She states that Dave Sargent attended a site visit but has not composed a report as of yet. Three copies of her report were submitted along with the letter to Dave Sargent.

PUBLIC COMMENT: Closed.

Mr. Febiger notes his concern regarding the possibility of sand migrating around.

Mr. Gulla notes an Enforcement Order. It was noted that the applicant in regards to the Enforcement Order filed an NOI and attended a meeting.

MOTION: Mr. Febiger moves that the GCC approve the release of the Enforcement Order and approve the beach nourishment as a one time occurrence and not something to be done on a continuing basis.

SECOND: Mr. Frontiero, noting DEP and a cease and desist order.

The Agent states that there is no indication re: DEP but it could be in relation to the tennis courts.

VOTE: 4-0 all in favor.

Mr. Dick states that this is grand fathered and the beach has been nourished since the 1940's.

Mr. Gulla states that the violation before the GCC should not have happened and it should not happen again.

The Agent states that evidence that has been submitted does not show this as a beach.

Any sand is in violation of the WL Protection Act.

Any notification of sand dumping in the area would be in violation and an Enforcement Order would be issued.

Request for Letter Permit –

17 JEBEKA LANE

The Agent notes approval of the LP pending review by Dave Sargent.

91 RIVERVIEW ROAD

The Agent notes that she is awaiting review and comments from Dave Sargent.

Chapter 91 application is difficult, amendment filed to move out of the Chapter 91 process. Mr. Gulla states he will entertain a motion to deny the Letter Permit as information from Dave Sargent needs to be reviewed by the GCC.

Mr. Gulla states he will entertain a motion to adjourn the GCC meeting for this evening.

MOTION: Mr. Feener moves to adjourn

SECOND: Mr. Frontiero **VOTE:** 4-0 all in favor.

Meeting adjourned.

Respectfully submitted,

Carol A. Gray
Recording Clerk